



Paper No. 18

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**OFFICE OF PETITIONS  
ON PETITION**

In re Application of  
Longstreth  
Application No. 09/025,896  
Filed: February 18, 1998  
For: CABBAGE CUTTER

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on October 25, 2001, to revive the above-identified application.

The petition is **GRANTED**.

A final Office Action was mailed on August 25, 1999 setting forth a 3-month shortened statutory reply period.<sup>1</sup> Applicant submitted proposed substitute specifications on November 4, 1999 and on December 9, 1999, both of which were determined by the Examiner to not place the application in condition for allowance. This application became abandoned on November 26, 1999 for failure to timely submit a proper reply to the August 25, 1999 final Office Action.<sup>2</sup> On August 2, 2001, Applicant filed a petition under 37 CFR 1.137(b) to revive this application, accompanied by a third set of proposed substitute specification which again was determined by the Examiner to not place the application in condition for allowance.<sup>3</sup> That petition was thus dismissed.

The instant petition contains a Request for Continued Examination (RCE) under 37 CFR 1.114 in reply to the August 25, 1999 final Office Action,<sup>4</sup> the \$370 RCE filing fee (small entity), a Substitute Specification as the submission required by 37 CFR 1.114(c),<sup>5</sup> and a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable

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<sup>1</sup> See Paper No. 4.

<sup>2</sup> See Paper No. 7.

<sup>3</sup> See 8/30/01 Decision dismissing the 8/2/01 petition.

<sup>4</sup> See MPEP 711.03(c)(III)(A)(2)(b) (Aug. 2001) (In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive may be the filing of a request for continued examination (RCE) (accompanied by a submission and the requisite fee) under 37 CFR 1.114 for utility or plant application filed on or after 6/8/95.)

<sup>5</sup> A submission . . . includes, but is not limited to, . . . an amendment to the written description, claims . . .

petition pursuant to 37 CFR 1.137(b) was unintentional. The petition is thus granted.<sup>6</sup>

The application is being forwarded to Technology Center 3700 for examination of the Substitute Specification submitted with the instant petition.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.



Beverly M. Flanagan  
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Office of Petitions  
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for Patent Examination Policy

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<sup>6</sup> The submission accompanying the RCE must be a reply responsive to the last Office action, but the petition may be granted if the submission appears to be a *bona fide* attempt to provide a complete reply to the last Office action. After revival of the application, the Examiner may require correction(s) to the reply. If the reply is not timely corrected, the application is again abandoned. See MPEP 711.03(c)(III)(A)(2)(d) (Aug. 2001).